

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)
)
Plaintiff,) **8:05CR116**
)
vs.) **ORDER**
)
M,A, YAH,)
)
Defendant.)

This matter is before the court on following another attempt to conduct a change of plea in this matter. Defendant M,A, Yah sought to change his plea of not guilty to guilty as to Counts I and VIII (Filing No. 154). Trial of this matter was continued to May 19, 2006, following the defendant's request (Filing No. 151). Thereafter the defendant sought to enter a plea of guilty and such change of plea hearing was scheduled before Judge Smith Camp on May 4, 2006 (Filing No. 152). Thereafter, the defendant asked to continue the plea proceedings and indicated his consent to appear before a magistrate judge. The change of plea hearing was scheduled before the undersigned magistrate judge on May 8, 2006 (Filing No. 157).

On May 8, 2006, the defendant appeared for a change of plea hearing (Rule 11) but requested a continuance due to prescribed medication he had consumed for pain to his injured shoulder. The request was granted and the hearing was rescheduled for May 15, 2006 (Filing No. 158). On May 15, 2006, the defendant again appeared before the court for a change of plea proceedings and requested the hearing be continued due to his using the prescribed medication. The request was granted and the hearing was continued to May 26, 2006, and the court required the defendant to file proof of his medical condition and prescribed medication together with the affect of such medication (Filing No. 159). The defendant filed a motion to continue the Rule 11 hearing on May 26, 2006, since his neurologist rescheduled a consultation previously set for May 25, 2006 (Filing No. 160). The defendant's doctor, Adrian Dressen, M.D., provided a letter explaining that the defendant was prescribed vicodin for pain and that using such medication could alter the defendant's ability to understand the Rule 11 proceedings (Filing No. 160). Dr. Dressen

stated that the effect of vicodin would last about 6-8 hours. Dr. Dressen also stated that an alternative medication of Tylenol or plain ibuprofen could be taken without the narcotic effect. Defendant's request for a continuance was granted to June 16, 2006 (Filing No. 161).

On June 16, 2006, the defendant was a half hour late in reporting to the court for the Rule 11 hearing. Through counsel, the defendant stated his doctor's appointment was rescheduled and he was at his doctor's office when called by his counsel. Defendant's counsel informed the defendant to come immediately to court. When the defendant appeared, the court was informed that the defendant still wished to enter a plea in accordance with his plea agreement and petition to enter a plea of guilty, but he was still under the influence of vicodin and was unable to proceed. The government announced that it was withdrawing from the plea agreement and asked that the case be removed from the plea docket and rescheduled on the trial docket.

IT IS ORDERED:

The government's request to remove this matter from the plea docket and to reschedule trial is granted. Trial of this matter will commence before Judge Laurie Smith Camp and a jury at **8:30 a.m. on August 1, 2006**, or as soon thereafter as can be reached on Judge Smith Camp's trial docket.

IT IS FURTHER ORDERED:

If this case is to be concluded by a plea, such plea proceedings must be concluded before the trial date set forth above as the trial will not be continued to accommodate such a plea.

DATED this 16th day of June, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge